

CITY OF TIGARD, OREGON

ORDINANCE NO. 02-04

AN ORDINANCE AMENDING CHAPTER 13.04, LOCAL IMPROVEMENTS- GENERAL PROCEDURES, OF THE TIGARD MUNICIPAL CODE.

WHEREAS, the City Council finds that Chapter 13.04 of the Tigard Municipal Code should be updated;

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Chapter 13.04 is amended to read as follows:

Deleted language is shown by a ~~strike through~~ of language; added language shown by an underline of language.

Chapter 13.04 GENERAL PROCEDURES

Sections:

- 13.04.010 Definitions.
- 13.04.020 Initiation of local improvement district.
- 13.04.030 Fees--Report and recommendation--Resolution.
- 13.04.040 District formation--Public hearing--Ordinance.
- 13.04.050 Improvements--Final plan and specifications--Resolution accepting.
- 13.04.055 Public hearing on final plans and specifications.
- 13.04.060 Assessment--Notice and public hearing--Ordinance.
- 13.04.070 Finance and closure.
- 13.04.080 Administration.

13.04.010 Definitions.

As used in this chapter:

(a) "Local improvement" means:

- (1) The grading, graveling, paving or other surfacing of any street, or opening, laying out, widening, extending, altering, changing the grade of or constructing any street;
- (2) The construction or reconstruction of sidewalks;
- (3) The installation of street lights;
- (4) The installation of underground wiring or related equipment;
- (5) The reconstruction or repair of any street improvement mentioned in this subsection;
- (6) The construction, reconstruction or repair of any sanitary or storm sewer or water main;

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(7) The acquisition, establishment, construction or reconstruction of any off-street motor vehicle parking facility;

(8) The construction, reconstruction, alteration, relocation or repair of any flood-control dike, dam, floodway or drainage facility;

(9) The construction, reconstruction, installation and equipping of a park, playground or neighborhood facility;

(10) Any other local improvement for which an assessment may be made on the property specially benefited.

(b) "Local improvement district" means the ~~property which~~ properties, which is ~~are~~ to be assessed for the cost or part of the cost of local improvement and the ~~property properties that have benefited by all or part of the improvement on which the local improvement is located.~~

(c) "Lot" means lot, block or parcel of land.

(d) "Owner" means the owner of the title to real property, or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the office of county assessor.

~~(e) "Preassessment" means a method of assessing properties for local improvement districts prior to construction of the project, based upon the engineer's estimate (either the city or consulting engineer). (Ord. 85-40 §3, 1985).~~

13.04.020 Initiation of local improvement district.

(a) Initiation of District Formation Proccss.

(1) ~~The making of the local improvement and the~~ local improvement district formation process may be initiated in one of the following ways:

~~(A) The council may declare an emergency to exist.~~

~~(B)(A) The council~~ Council may initiate the formation of the district and the making of the improvement on its own motion.

~~(C)(B) The property owners owning at least fifty percent of the property benefitted~~ benefitted by the local improvement may by written petition request the ~~council~~ Council to form the district and make the improvement.

(2) ~~The community development director~~ city engineer shall prepare a preliminary evaluation report. The report shall:

~~(A) Identify known factors which support the formation of the district and improvement and known factors which make the district and improvement not feasible or not in the public interest;~~

~~(B) Recommend approval, approval with conditions or denial.~~

~~(3) The community development director~~ city engineer shall submit the preliminary evaluation report to the council when the recommendation is for approval or for approval with conditions.

~~(4) The council may request on its own motion to have a preliminary evaluation report brought to it for action when the recommendation is for denial.~~

(b) Resolution to Prepare Preliminary Engineer's Report.

~~(1) The council shall consider the preliminary evaluation report. A public hearing is not required.~~

~~(2)(1) Based on a staff report prepared by the City Engineer addressing the factors in favor of and against formation of a local improvement district, the preliminary evaluation report, the council~~ Council shall:

~~(A) Direct staff to terminate work on the proposed district and improvement; or~~

~~(B)(A) Adopt a resolution directing that staff to prepare a preliminary engineer's report be prepared; or-~~

~~(B) Direct staff to terminate work on the proposed district. The Council may also direct staff to terminate work on the local improvement.~~

~~(3)(2) The resolution directing that a preliminary engineer's report be prepared may include alternatives that the council~~ Council intends for staff to consider. (Ord. 85-40 §4, 1985).

13.04.030 Fees--Report and recommendation--Resolution.

(a) Fees. ~~The council may adopt a fee schedule for the preparation of the preliminary engineer's report. The fee schedule shall apply to applications initiated under Section 13.04.020(a)(1)(C). The city shall not commence preparation of the report until the fee is paid to the city. Fee for engineer's report. If the process is initiated by petition of property owners, the petitioners shall pay in advance the cost of preparing the engineer's report. Preparation of the engineer's report shall not commence until the fee is paid.~~

(b) Preliminary Engineer's Report.

(1) ~~The community development director~~ City Engineer shall have a preliminary engineer's report prepared. The report shall:

(A) Include the scope of the work, location of the proposed improvements, financial information, the proposed district boundaries, estimated costs, and other relevant information which go to the feasibility of the proposed improvement and the district. If it is determined that it is necessary to enter onto property within the proposed district for surveying or other engineering purposes, the preliminary engineer's report shall include an adequate description of the properties to be entered upon and a detailed description of the work to be done on the properties.

(B) Recommend approval, approval with conditions or denial.

~~(2) The engineer's report may contain a suggested allocation of costs to be paid by benefited property owners and may include a suggested method of spreading the anticipated assessment.~~

~~(3)(2) As an alternative to procedures outlined in subsection (b)(1) of this section, the community development director~~ City Engineer may authorize entry upon any property within the proposed district pursuant to and for the purpose outlined in ORS 223.010. Within a reasonable time after the entry upon the land, the ~~community development director~~ City Engineer shall report to the ~~council~~ Council on the results of the entry.

(c) Project Priorities. The ~~city~~ City by rule may establish standards for prioritizing projects.

(d) Recommendation to Council.

(1) ~~The community development director~~ City Engineer shall prepare a report ~~recommendation to the council. The report recommendation shall be composed of two elements address:~~

(A) The project feasibility based on the preliminary engineer's report; and

~~(B) The recommended project priority based on the standards for prioritizing projects.~~

~~(B) Any previously adopted rules establishing priorities of projects.~~

~~(2) The recommendation to the council shall be to form the district and to make the improvement or not to form the district and not to make the improvement.~~

~~(2) The recommendation may include a proposed apportionment of costs to be assessed against the benefited properties and may include a proposed method of spreading the assessment.~~

(e) Resolution of Intention.

(1) ~~The council shall receive the community development director's city engineer's recommendation.~~ The council shall consider the City Engineer's recommendation and shall decide whether to declare its intention to form the district and to make the public improvements. No public hearing shall be required.

(2) The resolution of intention shall:

(A) Describe the general nature, location and extent of the proposed local improvement and of the proposed local improvement district;

(B) Declare the ~~council's~~ Council's intention to make the improvement;

(C) Indicate the method and manner of carrying out the improvement;

(D) Contain an estimate of the probable total cost of the improvement;

~~(E) Indicate the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefitted;~~

~~(F)~~(E) Set a public hearing on the improvement; and

~~(G)~~(F) Direct that notice be given of the proposed improvement and of the public hearing.

~~(3) The resolution of intention may set forth a proposed determination of the portion of the total costs to be assessed against the benefited properties and may set forth a proposed method of spreading the assessments. If a proposed allocation of costs or proposed method of spreading the assessments is included in the resolution, the resolution shall state that the allocation of costs and method of assessment are only tentative and that they may be altered by the City at the time of final assessment.~~

~~(3)~~(4) The resolution of intention may include alternative proposals relating to a proposed local

improvement; provided, however, that all of the information required for a particular local improvement shall be included for each alternative proposal. (Ord. 86-37 §1, 1986; Ord. 86-21 §1, 1986; Ord. 85-40 §5, 1985).

13.04.040 District formation--Public hearing--Ordinance.

(a) Alternative Procedures.

(1) The ~~council~~Council may form an improvement district and initiate and construct a local improvement without publishing or mailing notice to the owners of specifically ~~benefitted~~benefited property and without holding a public hearing on the matter when all of the owners of the specifically ~~benefitted~~benefited and assessed property have signed a petition which has been directed and presented to the ~~council~~Council requesting the improvement and formation of the district and the petitioners have signed a waiver of the right to remonstrate against the formation of the district and against the method for the spread of the assessment.

(2) The ~~council~~Council shall publish notice, give individual mailed notice and hold a public hearing in all other situations, ~~where less than all of the owners have requested the improvement.~~

b) Notice of Hearing.

(1) The ~~community development director~~ City Engineer shall give at least ten days' notice to the property owners within the proposed district of the public hearing on the formation of the district and the local improvement by:

(A) Publication in a newspaper of general circulation within the ~~city~~City. ~~There shall be only~~Only one publication is required; and

(B) Mailing a copy of the notice by first-class mail to the owner(s) of each lot affected by the proposed improvement.

(2) The notice shall contain:

(A) A general description of the proposed local improvement and the property to be specially ~~benefitted~~benefited thereby. The description of property need not be by metes and bounds but shall be such that an average person can determine from it the general location of the property;

(B) An estimate of the total cost of the improvement and the ~~portion anticipated to be paid for by special assessments;~~

(C) The date, time and place of the public hearing;

(D) A statement of a place where preliminary project design and other additional information concerning the improvement is available to the public; and

(E) Information concerning any proposed allocation of costs or method of assessment included in the resolution of intention;

~~(E)~~(F) A statement that the purpose of the hearing is to hear remonstrances and that in order to be considered all written and oral remonstrances must be received by the close of the hearing;

(G) A statement that the Council may modify the proposed boundaries or proposed local improvement;

(H) A statement that the costs and any proposed allocation of costs or method of assessments are proposals only and that the actual assessment will be based on the actual costs and on a method of assessment to be determined only after the local improvement is completed.

~~(F)~~(I) Any other information the ~~council~~-Council may direct to be included.

(3) Any mistake, error, omission or failure with respect to mailing of notice shall not be jurisdictional or invalidate the local improvement proceedings.

(c) Hearing Procedure.

(1) The ~~council~~-Council shall hold a public hearing and shall consider oral and written testimony.

(2) The ~~council~~-Council may order the improvement to be made and the district to be formed as provided by this chapter.

(3) An order to form the district and to make an improvement shall be made by ordinance within ninety days after the date of the final hearing.

(d) Decision to Make Improvement and Form District.

(1) Remonstrances.

(A) The ~~council~~-Council shall not proceed with the formation of the district and the making of the improvement when the property owners owning two-thirds of the property area within this district to be specially assessed remonstrate against the improvement. This provision shall not apply in case of an emergency or to sidewalks as provided by the Charter.

(B) All remonstrances shall be filed with the ~~city~~-City ~~recorder~~-Recorder by the close of the initial public hearing. Thereafter, no remonstrance shall be considered except from persons receiving new notice. In situations where new notice is given, remonstrances shall be filed by the close of the public hearing for which new notice was given.

(C) In the case of multiple owners of a particular parcel of land, each remonstrating owner shall be counted as a fraction of a vote to the extent of their interest in the property.

(D) Any person acting as an attorney or agent with power to act in signing a remonstrance shall, in addition to describing the property affected, file with the remonstrance a copy in writing of the authority to represent the owner of the property.

(E) A remonstrance may be withdrawn any time up until the close of the hearing for the purpose of considering remonstrances.

(2) Council Discretion Not to Form District. The ~~council~~-Council may decide not to proceed with the formation of the district and the making of the improvement when the petition has been signed by less than one-half of the ~~benefitted~~-benefited property owners, the district is deemed to be untimely or not in the best interests of the ~~e~~City.

(e) Modification to Scope of Improvement or District.

(1) Based on testimony at the hearing, the ~~council~~ Council may make modifications to the scope of the improvement or the district boundary.

(2) A new resolution of intent shall be adopted, new estimates made and a new individual notice mailed to the owners within the proposed district when the scope of the improvement is modified so that the assessment is likely to increase on one or more properties. A new hearing shall be held.

(3) A new resolution of intent shall not be required when properties are added or deleted from the proposed district and it is not likely to increase the assessment on one or more properties within the boundaries of the initial proposed district. The hearing shall be reopened when the proposed district is enlarged to include additional properties when the owners have not made a specific request in writing to be included within the district when the assessment will not be increased on other properties, individual notice shall be mailed only to the newly included property owners and the hearing shall be limited to testimony from the owners of the newly included properties. Ten days shall be given for remonstrance. All remonstrances from the newly included property shall be filed in writing with the ~~e~~City ~~R~~Recorder or withdrawn by the close of the reopened hearing.

(f) Formation of District. The ~~council~~ Council shall provide for the establishment of the local improvement district and making of the improvement by the adoption of an ordinance to form the district. (Ord. 87-13 §1, 1987; Ord. 85-40 §6, 1985).

13.04.050 Improvements--Final plan and specifications--Resolution accepting.

(a) The plans and specifications and improvements may be made in whole or in part by the ~~city~~City, by another governmental agency, by contract or by any combination thereof.

(b) The ~~community development director~~ City Engineer shall:

(1) Cause the necessary rights-of-way and easements to be acquired and the improvements to be made in accordance with the terms of the ordinance to form the district; and

(2) Cause final plans and specifications to be prepared and filed.

(A) Unless stated otherwise in the final plan and specifications, all technical requirements for the proposed improvements, such as curb heights, overlay thicknesses, etc., shall be those on file with the ~~city~~City ~~E~~Engineer as the approved requirements for all construction within the ~~city~~City.

(B) A description of all necessary rights-of-way and easements shall be included in the final plan and specifications. Easements may be acquired for any necessary public use within the district and may include easements for access to properties that would otherwise have no public access or would have inadequate public access.

(c) The contract bid process shall be in accordance with the ~~city's~~ City's purchasing rules.

(d) The resolution accepting the final report which may include sections on the improvement, finance and legal summaries. (Ord. 86-21 §§3 and 4, 1986; Ord. 85-40 §7, 1985).

13.04.055 Public hearing on final plans and specifications.

(a) When ~~city~~ City ~~council~~ Council deems it in the best interest of the public, or when a material defect in the preliminary plans and specifications of the local improvement district has been found, a public hearing on the final plans and specifications may be called. The ~~council~~ Council may cure defects, or delete portions of the plans which have been declared void or set aside for any reason, and make necessary additions to the information in subsection (b)(1) of Section 13.04.030, the preliminary engineer's report.

(b) The notice of public hearing shall follow subsection (b) of Section 13.04.040.

(c) Hearing Procedure. The ~~city~~ City Council shall consider oral and written testimony. (Ord. 86-21 §2, 1986; Ord. 85-40 §7.1, 1985).

13.04.060 Assessment--Notice and public hearing--Ordinance.

(a) Costs and Expenses.

(1) The costs and expenses of local improvements that may be assessed against the property specially ~~benefitted~~ benefited by the improvement shall include, but not be limited to:

(A) The costs of any necessary property, right-of-way or easement acquisition and condemnation proceedings;

(B) Engineering and survey costs;

(C) The costs of construction and installation of improvements;

(D) The costs of preliminary studies, and reports of usable work done on previous proposals within the proposed district boundary which were not paid by the district because the proposal was abandoned;

(E) Advertising, legal, administrative, survey, engineering, notice, supervision, materials, labor, contracts, equipment, inspection and assessment costs;

(F) Financing costs including interest charges;

(G) Attorney's fees; and

(H) Any other necessary expenses;

(I) The costs of all administrative expenses, including legal fees, expended on a previously instituted improvement within the district boundary, where the previous improvement was abandoned, delayed by litigation or otherwise not completed as planned.

(b) Method of Assessment--Types of Assessment.

(1) The ~~council~~ Council in adopting a method of assessment of the costs of any local improvement may:

(A) Use any reasonable method of determining the extent of the local improvement district consistent with the benefits derived; and

(B) Use any reasonable method of apportioning the sum to be assessed between the properties determined to be specially ~~benefitted~~ benefited.

(2) ~~The council~~ Council ~~may use either a preassessment procedure or shall use a final assessment procedure. Preassessment begins at the formation stage and assessments are based on the estimated costs. Final assessment begins after the project is completed and is based on actual costs.~~

(3) ~~As an alternative to a preassessment procedure, the council may contract for indebtedness sufficient to cover the costs and expenses of the proposed local improvement. Upon the completion of the improvement, the benefitted~~benefited property owners will be finally assessed proportionate to the benefits derived from the improvement based on the method of assessment adopted by the City Council, and these assessments will be used to repay the indebtedness and the interest on the indebtedness. The final assessments under this procedure shall be eligible for payment in installments, as outlined in subsection (b) of Section 13.04.070 below. The final assessments under this section shall be entered in the city's ~~City's~~ lien docket and shall become a lien on the assessed property, as outlined in subsection (a) of Section 13.04.080 below. The liens created by these assessments may be placed as security for any indebtedness incurred by the ~~city~~ City to cover the costs of the proposed improvement.

(c) Assessment Procedure.

(1) ~~The community development director~~Upon completion of the local improvement, the City Engineer shall:

(A) ~~Ascertain the preassessment, final assessment or deficit assessment as directed by the council; Propose the portion of the total costs to be paid by the benefitted properties and propose a method for spreading the assessments among the specially benefitted properties.~~

(B) Prepare the proposed assessments for each lot within the improvement district based on the proposed allocation of costs and method of assessments;

(C) File the assessments with the Finance Director; and

(D) Submit the assessments to the Council in the form of an assessment resolution.

(2) In preparing the proposed cost allocation and method of assessment, the City Engineer shall provide a written explanation if the proposed cost allocation or method of assessment differs from any cost allocation or method of assessment previously proposed.

~~(2)~~(3) The Council shall review the proposed assessments and may make modifications. The council~~Council~~ shall adopt an assessment resolution and shall direct that notice of proposed assessments to be given and that a public hearing shall be held to consider objections.

~~(3)~~(4) Notice of the proposed assessments shall be given at least ten days prior to the hearing and it shall be mailed or personally delivered to the owner(s) of each property to be assessed or if personal service cannot be had, then by publication once a week for two consecutive weeks in a newspaper of general circulation in the City. The notice shall contain the following information:

(A) The name of the owner, the description of the property assessed, the total estimated or actual project cost assessed against benefitted~~benefitted~~ property and the amount of the assessment against the described property;

(B) The proposed cost allocation and method of assessment.

~~(B)~~(C) A date and time by which written objections to the proposed assessment stating specifically the grounds for objection must be received and the date, time and place of a public hearing at which the Council will consider written objections; and

~~(C)~~(D) A statement that the assessment in the notice or as it may be modified by the council~~Council~~ will be levied by the council~~Council~~ after the hearing and that the assessment then will be charged against the property and be immediately payable in full or in installments, if applicable.

~~(4)~~(5) Supplementary notice of the proposed assessment and public hearing on it, in form and content to be determined by the ~~F~~finance ~~D~~irector, may also be published or posted by the ~~F~~finance ~~D~~irector.

~~(5)~~(6) Any mistake, error, omission or failure with respect to mailing of notice shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner or, if personal service cannot be had, then by publication once a week for two consecutive weeks in a newspaper of general circulation in the ~~C~~city.

~~(6)~~(7) The ~~C~~ouncil shall hold the public hearing on the proposed assessments to consider those objections filed in writing and may adopt, correct, modify or revise the proposed assessments. The ~~c~~ouncil Council shall determine the amount of assessment to be charged against each lot within the local improvement district according to the special and peculiar benefits accruing thereto from the improvement.

~~(7)~~(8) The ~~C~~ouncil shall spread the assessment by ordinance. (Ord. 86-21 §§5 and 6, 1986; Ord. 85-40 §8, 1985).

13.04.070 Finance and closure.

(a) Notice of Assessment.

(1) The ~~f~~Finance ~~d~~irector shall send notice by first-class mail within ten days after the effective date of the ordinance spreading the assessment.

(2) The notice shall state the following:

(A) The effective date of the ordinance levying the assessment, the name of the owner of the property assessed, the amount of the specific assessment and a description of the property assessed;

(B) A statement that an application may be filed to pay the assessment in installments in accordance with the provisions of Section 13.04.050070(b);

(C) A statement that the entire amount of the assessment, less any part for which application to pay in installments is made, is due within thirty days of the date of the notice and, if unpaid on that date, will accrue interest and subject the property to foreclosure.

(3) Supplementary notice of assessment, in form and content to be determined by the ~~f~~Finance ~~d~~irector, may also be published or posted by the ~~f~~Finance ~~d~~irector.

(b) Installment Payments.

(1) The owner of any property assessed for an improvement in the sum of ~~twenty-five-five~~ hundred dollars or more, at any time within ten days after notice of such assessment is first given, may file with the ~~f~~Finance ~~d~~irector a written application to pay in installments.

(2) The ~~f~~Finance ~~d~~irector shall accept the written application to pay in installments unless the amount remaining unpaid on the current assessment together with the unpaid -balance of any previous assessments for improvements against the same property exceeds the real market value of the property.

(3) The written application shall:

(A) State that the applicant and property owner does waive all irregularities or

defects, jurisdictional or otherwise, in the proceedings to cause the improvement to be constructed or made for which the assessment is levied and in the apportionment of the cost; and

(B) State that the applicant or property owner understands the terms and conditions of the eCity's payment policies including the penalties for nonpayment.

~~(4) The council may adopt rules regarding the financing of improvements, assumption of payments resulting from a transfer of ownership, interest rates and service charges for late payments. The Finance Director shall set interim and final interest rates for the financing of improvements, assumption of payments resulting from a transfer of ownership, and service charges for late payments.~~

(A) The interim interest rate shall be equal to the U.S Government Bond Ask Rate for the expected financing maturity date or an equal index as determined by the Finance Director as of the 1st of the month in which the application for installment financing is signed, plus 2%.

(B) The final interest shall be equal to the interest rate the City is charged on bonds issued to finance the assessment, plus 1.25%.

(5) The eCouncil by resolution shall declare a payment due and payable after one year of delinquency, and the entire balance shall become immediately due. The resolution shall give the name of the owner then in default in the payment of the sums due, either principal or interest, together with a description of the property upon which the sums are owing and declaring the whole sum, both principal and interest, due and payable at once. The fFinance dDirector is then directed to proceed at once to collect all unpaid installments and to enforce collection thereof, with all penalties added thereto, in the same manner as described in subsection (a)(2)(c) of this section.

(6) Whenever the owner of property changes through the sale or transfer of land, or the division of land, the total assessment balance plus interest may be assumed subject to the following conditions as set forth in Ordinance No. 85-12.. The City shall not allow an assumption, if the assessment balance is less than \$3,000.00. An assumption fee, which shall be set by resolution of the City Council, and fees for recording the lien and the release of the lien will be charged. The City shall not allow an assumption, if the buyer of the property has a history of slow or delinquent payment on other debt to the City. Assumptions for assessments shall be at the rate charged to the owner of the property at time of assessment.

~~(c) Deficit Assessments.~~

~~(1) The council may make a deficit assessment for additional costs when the initial assessment was based on estimated costs and the actual cost exceeds the estimated cost.~~

~~(2) The community development director city engineer shall follow the procedures set forth in Section 13.04.060.~~

~~(3) The deficit assessment shall be in the same proportional share as the initial assessment.~~

~~(4) The deficit assessment shall be spread by ordinance.~~

~~(5) The finance director shall enter the deficit assessment on the city's lien docket as an increase in the property owner's original assessment.~~

~~(d) Rebates and Credits.~~

~~_____ (1) The community development director city engineer shall, if the final cost is less than the estimate:~~

~~_____ (A) Ascertain the total amount of excess assessment;~~

~~_____ (B) Prepare the proposed credit amounts for each lot within the improvement district using the method of assessment adopted by the council in Section 13.04.060(e)(6);~~

~~_____ (C) File the credit amounts with the finance director; and~~

~~_____ (D) Submit the credit amounts to the council in the form of an ordinance.~~

~~_____ (2) The council shall declare the excess assessment by ordinance.~~

~~_____ (3) The finance director shall rebate or credit the over assessment according to the following process:~~

~~_____ (A) In the event there is an outstanding balance due, a credit shall be entered into the city lien docket as an adjustment to the property owner's assessment lien account.~~

~~_____ (B) In the event the original assessment has been paid in full, the current property owner shall be entitled to a cash refund of the excess amount paid.~~

~~(e)(c)~~ Reassessments.

(1) The eCouncil may make (1) a new assessment or (2) a reassessment in the manner provided by this subsection when:

(A) The eCouncil is in doubt as to the validity of all or a part of ~~such an~~ assessment by reason of ~~such~~ defects in procedure; or

(B) All or a part of any assessment has been or is declared void or set aside for any reason or its enforcement is refused by a court having jurisdiction.

(2) Basis for Amount and Method of Reassessment.

(A) The reassessment shall be based upon the special and peculiar benefit of the improvement to the respective lots at the time of the original making of the improvement.

(B) The amount of the reassessment shall not be limited to the amount of the original final assessment, but the property embraced in the reassessment shall be limited to property embraced in the original final assessment, except that property on which the original assessment was paid in full shall not be included in the reassessment. If a property has paid the original final assessment in full, that property shall not have to pay the reassessment. In determining the amount of the reassessment, the Council shall not increase the amount assessed against any property based on the fact that one or more properties have paid the original assessment in full.

(C) Interest from the date of delinquency of the original final assessment may be added by the eCouncil to the reassessment in cases where the property was included in the original final assessment, but such interest shall not apply to any portion of the reassessment that exceeds the amount of the original final assessment.

(D) The reassessment shall be made in an equitable manner as nearly as may be in accordance with the law in force at the time the local improvement was made, but the eCouncil may adopt a different plan of apportioning benefits or exclude portions of the district when in its judgment it is essential to secure an equitable assessment.

(E) Credit shall be allowed on the ~~new~~ reassessment for all payments made on the original assessment.

~~(3) Effect of Reassessment. The reassessment shall be legally binding except that reassessment shall not be made in case of any improvement where in a remonstrance sufficient in law to defeat it has been duly filed prior to the making of the improvement.~~

(4) Procedure.

(A) The reassessment shall be initiated by adoption of a resolution which:

- (i) Designates the improvement as to which a reassessment is contemplated;
- (ii) Describes the boundaries of the district that the eCouncil contemplates for the reassessment; and

(iii) Directs the ~~f~~Finance ~~d~~Director to prepare a proposed reassessment upon the property included within the district and subject to reassessment.

(B) Upon passage of the reassessment resolution, the ~~f~~Finance ~~d~~Director shall prepare the proposed reassessment and file it in the office of the cCity ~~r~~Recorder.

(C) The ~~f~~Finance ~~d~~Director shall give notice of the reassessment by not less than four successive publications in a newspaper published in the eCity and, if there is no newspaper published in the eCity, in a newspaper to be designated by the eCouncil.

(D) The notice shall state:

- (i) The proposed reassessment is on file in the office of the eCity ~~r~~Recorder;
- (ii) The date of the passage of the resolution authorizing it;
- (iii) The boundaries of the district or a statement of the property affected by the proposed reassessment; and

(iv) The date, time and place where the eCouncil will hear and consider objections to the proposed reassessment by any party aggrieved thereby.

(E) The ~~f~~Finance ~~d~~Director shall mail within five days after the first date of publication of notice to the owner of each lot affected, a copy of the notice of the proposed reassessment as provided in paragraph (D) of this subdivision together with a statement of the amount proposed to be charged against the lot.

(F) Any person having an interest in the affected property may, within ten days from the day of the last insertion of the printed notice, file in writing with the City ~~r~~Recorder objections against the proposed reassessment.

(G) The eCouncil shall hear and determine all objections filed under paragraph (E) of this subdivision. The eCouncil may continue the hearing to correct, modify or revise the proposed reassessment or set it aside and order a new proposed assessment. A change which results in an increase in the amount proposed to be charged against any property shall require:

(i) New published notice for not less than two successive insertions in a newspaper as provided by paragraphs (C) and (D) of this subdivision; and

(ii) New individual notice as provided under paragraph (E) of this subdivision to the owners of property against which the amount of assessment is proposed to be increased.

(H) In situations where paragraph (G) of this subdivision applies, the eCouncil shall not take action until at least five days after the date of the last publication.

(5) Reassessment Ordinance--Lien Docket Entry-Crediting Prior Payments.

(A) The reassessment shall be by ordinance.

(B) The reassessment shall be entered into the eCity's lien docket.

(C) All provisions for bonding and paying by installments shall be applicable and such eCity liens shall be enforced and collected in the manner provided for collection of liens for an original improvement.

(D) All sums paid upon the ~~former original final~~ assessment or ~~any previous~~ assessment for the same improvement shall be credited to the property on account of which it was paid and as of the date of payment.

(f) Abandonment of Proceedings.

(1) The eCouncil shall have full power and authority to abandon and rescind proceedings for local improvements made pursuant to this chapter at any time prior to the full completion of the improvements.

(2) ~~If the Council has abandoned and rescinded the district, l~~iens which have been assessed upon any property under the provisions of this chapter shall be canceled and payments made on the improvements shall be refunded to the person or the person's assigns or successors, paying the same.

(g) Curative Provisions.

(1) No improvement assessment shall be rendered invalid by a failure to:

(A) Provide all of the information required to be in any eCity eEngineer's or other report, the resolution of intention, the assessment ordinance, reassessment, the eCity lien docket or notice required to be mailed, published or posted;

(B) Give in any report, in the proposed assessment, in the assessment ordinance, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot, tract or parcel of land or the name of any person having a lien upon or interest therein, or by a mistake in the name of any such person having a lien upon or interest in such property, or by reason of any error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in any of the proceedings or steps specified in this paragraph;

(C) The eCouncil shall have the power and authority to remedy and to correct all matters by suitable action and proceedings.

(2) Any mistake, error, omission or failure with respect to notice shall not be jurisdictional or invalidate the proceedings. (Ord. 96-26; Ord. 85-40 §9, 1985)

13.04.080 Administration.

(a) Entry In City Lien Docket.

(1) The ~~f~~Finance ~~d~~Director shall enter in the ~~e~~City lien docket:

(A) A statement of the amounts assessed on each particular lot, parcel of land or portion thereof;

(B) A description of the improvement;

(C) The name of the owner(s); and

(D) The date of the assessment ordinance.

(2) Upon entry into the lien docket, the amount entered shall become a lien on the respective lots, parcels of land or portions thereof, which have been assessed for the improvement.

(3) All assessment liens of the ~~e~~City shall be superior and prior to all other liens and encumbrances on the property.

(b) Filing of Resolution and Ordinance.

(1) The ~~f~~Finance ~~d~~Director shall file a copy of the ordinance to form the district establishing the local improvement district and the ordinance spreading the assessment with the ~~d~~Director of ~~r~~Records and ~~e~~Elections of Washington County.

(2) Failure to file the resolution or ordinance shall not invalidate or affect any proceedings in connection with the local improvement district and shall not impose any liability on the ~~e~~City or any official, officer or employee of the ~~e~~City.

(c) Segregation of Liens.

(1) A lien against the real property in favor of the ~~e~~City may be segregated on application by the owner(s) subject to satisfying the provisions of this section and the rules adopted by the ~~e~~Council or by action of the City.

(2) Applications shall be made to the ~~f~~Finance ~~d~~Director and shall include:

(A) A legal description of each tract to be segregated;

(B) The names of the owner of the tracts and the name of each person who will own each parcel should the segregation be approved; and

(C) A certificate from the ~~e~~County ~~a~~Assessor showing the assessed valuation of each tract as of January 1st of the year in which the segregation is requested, if available; otherwise, as of January 1st of the preceding year.

(3) No segregation shall be made unless each part of the original tract of land after the

segregation has a real market value of one hundred twenty percent or more of the amount of the lien as to each segregated tract concerned.

(4) The ~~finance~~-Finance ~~and~~Director shall compute a segregation of the lien against the real property on the same basis as it was originally computed and apportioned and shall record the segregation in the lien docket.

(5) ~~_____~~ (5) ~~_____~~ A segregation for the purpose of a lease shall remain the primary obligation of the property owner.

(6) ~~Failure to apply for segregation shall result in the lien placed upon all lots or parcels. When a payment against the assessments is made it will reduce the amount of all liens.~~

(d) Application of Chapter. The provisions of this chapter shall apply to all future local improvement districts and to the extent further actions or proceedings may be required, to all existing districts.

(e) Authority to Adopt Rules. The ~~e~~Council may adopt rules it deems necessary to carry out the formation of local improvement districts and the making of local improvements. (Ord. 96-26; Ord. 85-40 §10, 1985). ■

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By UNANIMOUS vote of all Council members present after being read by number and title only, this 8th day of January, 2002.

Catherine Wheatley
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 8th day of January, 2002.

James E. Griffith
James E. Griffith, Mayor

Approved as to form:

Timothy V. Ream
City Attorney

1-8-02
Date